

AMENDED IN SENATE APRIL 24, 2003

SENATE BILL

No. 935

Introduced by Senator Knight

February 21, 2003

An act to add Sections 18154 and 24996 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

SB 935, as amended, Knight. Income and corporation taxes: exclusion: capital gains.

The Personal Income Tax Law and the Corporation Tax Law provide that gain or loss upon the disposition of a capital asset is determined by reference to the specified adjusted basis of that asset.

This bill would provide that gross income does not include any gain from the sale or exchange of any new, direct, long-term investment in the stock of a small corporation, as specified.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 18154 is added to the Revenue and
- 2 Taxation Code, to read:
- 3 18154. (a) For purposes of this part, gross income does not
- 4 include any gain from the sale or exchange of any new, direct,
- 5 long-term investment in the stock of a small corporation.
- 6 (b) For purposes of this section:

(1) “Direct” means the stock must have been acquired from the firm and not in secondary markets, so it includes founders stock, stock options, venture capital placements, IPO’s, and subsequent public stock offerings.

(2) “Long-term” means the stock must be held for three *or more* years.

(3) “New” means that the stock must be offered after the effective date of the act adding this section, and does not include the sale of the previously acquired equity shares.

(4) “Small corporation” means a corporation ~~with~~ *that meets both of the following*:

(A) *At least 80 percent (by value) of the assets of the corporation are used by that corporation in the active conduct of one or more qualified trades or businesses in California during the entire period that the stock was held by the taxpayer.*

(B) *On either the date the stock is issued or the date the stock is sold, the corporation has three hundred million dollars (\$300,000,000) or less in capitalization (not valuation, but paid in capital).*

(5) “Stock” includes any type of stock, including convertible preferred shares.

(c) Any excluded gains under this section are not a preference item for purposes of the alternative minimum tax.

SEC. 2. Section 24996 is added to the Revenue and Taxation Code, to read:

24996. (a) For purposes of this part, gross income does not include any gain from the sale or exchange of any new, direct, long-term investment in the stock of a small corporation.

(b) For purposes of this section:

(1) “Direct” means the stock must have been acquired from the firm and not in secondary markets, so it includes founders stock, stock options, venture capital placements, IPO’s, and subsequent public stock offerings.

(2) “Long-term” means the stock must be held for three *or more* years.

(3) “New” means that the stock must be offered after the effective date of the act adding this section, and does not include the sale of the previously acquired equity shares.

(4) “Small corporation” means a corporation ~~with~~ *that meets both of the following*:

1 (A) *At least 80 percent (by value) of the assets of the*
2 *corporation are used by that corporation in the active conduct of*
3 *one or more qualified trades or businesses in California during the*
4 *entire period that the stock was held by the taxpayer.*

5 (B) *On either the date the stock is issued or the date the stock*
6 *is sold, the corporation has three hundred million dollars*
7 *(\$300,000,000) or less in capitalization (not valuation, but paid in*
8 *capital).*

9 (5) “Stock” includes any type of stock, including convertible
10 preferred shares.

11 (c) Any excluded gains under this section are not a preference
12 item for purposes of the alternative minimum tax.

13 SEC. 3. This act provides for a tax levy within the meaning of
14 Article IV of the Constitution and shall go into immediate effect.

